

PUBLIC HEARING

JUNE 13, 2012

A public hearing of the Council of the County of Kaua'i was called to order by Tim Bynum, Chair, Finance/Parks & Recreation/Public Works Programs Committee, on Wednesday, June 13, 2012, at 1:45 p.m. at the Council Chambers, Historic County Building, 4396 Rice Street, Suite 201, Lihu'e, Kaua'i, and the presence of the following was noted:

Honorable Tim Bynum
Honorable Dickie Chang
Honorable KipuKai Kuali'i
Honorable Mel Rapozo
Honorable JoAnn A. Yukimura
Honorable Jay Furfaro, Council Chair

Excused: Honorable Nadine K. Nakamura

The Clerk read the notice of the public hearing on the following:

"BILL NO. 2437 – A BILL FOR AN ORDINANCE TO AMEND SECTION 19-1.3 AND SECTION 19-1.4 OF THE KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO PARKS AND RECREATION,"

which was passed on first reading and ordered to print by the Council of the County of Kaua'i on May 23, 2012, and published in *The Garden Island* newspaper on May 30, 2012.

The following communications were received for the record:

1. Tessie Kinnaman, dated June 13, 2012 (Petition not supporting Bill No. 2437)
2. Mary Pat Mills, dated June 13, 2012
3. Valerie Saiki, Coalition for Tobacco-Free Hawai'i, dated June 7, 2012
4. Valerie Saiki, Coalition for Tobacco-Free Hawai'i, dated June 13, 2012
5. Debbie Odo, dated June 8, 2012
6. James L. Hunt, dated June 8, 2012
7. Rosanna Louis, dated June 10, 2012
8. Paul Ochoa, dated June 11, 2012
9. Jodi Driski, M.S.P.H., Get Fit Kaua'i, dated June 11, 2012
10. Don Weisman, Hawai'i Government Relations/Mission: Lifeline Director, dated June 12, 2012
11. Sally Jo Manea, dated June 12, 2012
12. Sammee Albano, dated June 12, 2012
13. Makaala Kaaumoana, Executive Director, Hanalei Watershed Hui, dated June 13, 2012
14. Silver Hunt, dated June 12, 2012
15. Jennifer Ray, dated June 12, 2012
16. James Fleming, dated June 12, 2012
17. Patricia Wistinghausen, dated June 12, 2012
18. Charles E. Roessler, dated June 13, 2012
19. Rebecca Smith, dated June 13, 2012
20. Janice S. Bond, dated June 12, 2012
21. Christopher Takenaka, dated June 13, 2012
22. John Hunt, dated June 13, 2012

23. David F. Saiki, dated June 13, 2012
The hearing proceeded as follows:

Chair Furfaro: We will start with Mr. Bynum, Mr. Bynum, you have the floor.

Mr. Bynum: In the sake of time, and there is a number of people here, we are going to follow our Council rules and allow each of you three (3) minutes to testify. We will go in the sign-up order. If you have more to say after everyone has gone through the first round, you may have an additional three (3) minutes if you desire.

Aloha John, and for those of you testifying, you start by stating your name for the record.

JOHN HUNT: For the record, my name is John Hunt. I am the Chairman of Tobacco Free Kaua'i. I am also on the Board of Directors of Tobacco Free Hawai'i.

First of all I want to thank the Council for introducing this bill, especially Councilman Chang for doing all the work on this. You are going to hear a lot of testimony on a lot of different aspects of this bill. I am going to concentrate on only one (1) right now, and that is cigarette butts.

Butt litter is a serious problem with environmental, social, and economic impacts. Somewhere around 4.5 trillion cigarette butts are littered worldwide each year, making them the most littered item in the world. In the United States an estimated 360 billion cigarette butts were consumed in 2007. Of course not all cigarette butts are littered, but it has been estimated that one in three (1 in 3) cigarettes are discarded as waste. I am sure if anyone of you have walked down the beach, my favorite place, I did not bring a picture, but if you are ever parked at the traffic light in front of Big Save in Kapa'a, look out the passenger side, there are approximately twenty (20) cigarette butts per square foot for as far as the eye can see. Given the weight of twenty (20) cigarette filters is .12 ounces. The waste from U.S. consumption alone would weigh about forty-five (45) million pounds of cigarette butts; that accounts only for the weight of the cigarette filter and does not include and remnant tobacco. Furthermore, cigarette butts are estimated to be thirty percent (30%) of the total litter along U.S. shorelines, and waterways, and other land.

Littered butts leak toxic emissions such as cadmium, lead, arsenic, and zinc, into water; they are proven to kill fish, they hurt birds, I have seen pictures of babies picking them up and putting them in their mouth. Just so you understand what this is, if we did pick up all these butts that are strewn across our land and tried to put them in the County landfill, we would not be allowed to because they are too toxic, they would have to be sent to a toxic waste dump.

There is over four thousand (4,000) chemicals inside a combusting cigarette that is being introduced to the environment; fifty (50) of those chemicals are known to cause cancer in humans, they are all concentrated in that butt.

The breakdown of a cigarette butt is estimated anywhere up to thirty-six (36) months. However, a cigarette butt most people think is made up of cotton, it is not, it is made of a poly-fiber that takes...even when it does break down into smaller and smaller pieces it never goes away. But the smaller those pieces get, it is releasing all of those toxic metals and chemicals into the environment.

Cigarette filters have been found in the stomachs of fish, birds, sea turtles, and other marine creatures.

Mr. Topenio: Three (3) minutes, Mr. Chair.

Mr. Hunt: I have seen them in the mouths of babies in our County parks.

Mr. Bynum: John, you have had your three (3) minutes. If you would like to sum up, or you may return. Up to you.

Mr. Hunt: That is all I really have to say on the matter.

Mr. Bynum: Thank you very much.

Mr. Hunt: Thank you.

Mr. Bynum: I am sorry, any questions?

Mr. Chang: I do not have a question. I was just going to say, John, you did not submit the testimony?

Mr. Hunt: No, I did not.

Mr. Chang: Can you just have the staff, so we can get a copy? I know you read it just off your own notes, but can we just get a copy of it, please?

Mr. Hunt: I know you called Dr. Bal second, I do not know where he is, I just put in a call to his office to tell him.

Mr. Bynum: We will move him down. Hang in there, John, for just a minute. Question from Councilmember Yukimura.

Ms. Yukimura: Just want to understand the implication of what you said, you said one (1) out of three (3) cigarette butts actually go into the trash even though it is actually hazardous waste. Meaning that two (2) out of three (3) are somewhere in the environment?

Mr. Hunt: I used to smoke. Flick them out the car window. You see it every day.

Ms. Yukimura: Thank you.

Mr. Hunt: You see it all over the parks.

Ms. Yukimura: Thank you.

Mr. Bynum: Thank you.

VALERIE SAIKI: Good Afternoon, Members. My name is Valerie Saiki, I am with the Coalition for Tobacco Free Hawai'i. Up here I have Silver Hunt, she can introduce herself.

SILVER HUNT: I am Silver, I am nineteen (19), I am from Kaua'i, Anahola.

Ms. Saiki: So basically I did speak a little earlier, I want to kind of sum up the same points that this bill is important especially for our keiki, the environment, and the marine life.

I brought a lot of show and tells, but the first thing that I did want to point out is a lot of times when we do consider new bills, we want us to know how does it affect the community? How much of the community is really not going to like it? How much is going to really support it? That is why I brought some of my show and tells. I brought our petitions. I know petitions have always gotten a kind of a slack in the past because you do not know if people are just signing it to sign it, or if they really know what they are signing. Here I have seventeen hundred seventy-eight (1,778) signatures of people who would support tobacco free beach and park, and that was specifically what they were signing. I trained each person who did gather these petitions to physically ask the question: do you support a tobacco free beach and park here on Kaua'i? And so, they signed that and they understood what they were signing, they left their address, their physical address so that you knew if they lived here on Kaua'i or if they were a visitor, along with emails. We also did separate ones specifically for Po'ipū Beach Park and for Lydgate Beach. I can leave that too if you wanted to see. Also, in the past we collected over fifteen hundred (1,500) signatures for smoke free Lydgate Beach Park, so these are another demonstration of the cards. I also want to point out, we are talking about keiki, do they have a right to hear their voice – yes they do. I have twenty five (25) letters here, handwritten testimony letters from tenth and eleventh graders in Kapa'a, and then here are ninth grade students, a total of one hundred nine (109) letters from the students in Kapa'a and Līhu'e. So this is Kapa'a Middle School and Chiefess Kamakahelei Middle School as well. So I would like to add that too for the testimonies as well, for your information when you do kind of consider this bill, and I really hope you take the time to consider this bill, I brought a lot of handouts for you.

Last time I talked about this book...I have these books if I can pass these out. And so last time I was here I talked about the smoking use and the trends here in Hawai'i, this is most recent up to date book. I wanted to point out the rate by County. Kaua'i is at fourteen percent (14%), so really only fourteen percent (14%) of smokers.

Mr. Topenio: Three (3) minutes, Committee Chair.

Mr. Bynum: Valerie, that is three (3) minutes. Would you like to sum up, or come back for three (3) more?

Ms. Saiki: I will sum up...come back meaning return? Or can I continue?

Mr. Bynum: It means after everyone else is done three (3) minutes you can come back and do an additional three (3). However, did you want to speak? Because you can have your own three (3) minutes.

Ms. Hunt: I support this bill because youth are the ones that use the parks most of the time and...

Mr. Bynum: Can you state your name please.

Ms. Hunt: Silver. I support this bill because youth are the ones that use the parks most of the time, and having cigarette butts on the park is harmful to the kids and are a bad influence.

Ms. Saiki: And then I would like to sum up with a memorabilia of pictures, I can hand that out after. And then I do want to sum up.

Mr. Bynum: Valerie, I will just give you your next three (3) minutes right now because I know you are a spokesperson for the coalition.

Ms. Saiki: So what I was going to do was continue to talk and then I just wanted to stop and say that you are blowing those bubbles, it is kind of distracting, it is kind of making it hard for me to talk to the Councilmembers and its getting in the way.

Ms. Silver: Why? It is just bubbles.

Ms. Saiki: I know, but it is getting stains on my papers and I am sure the Councilmembers were distracted by that as well.

Ms. Silver: Sorry.

Ms. Saiki: So I hope you guys get those pictures as some kind of last memories of the youth that do pick up the cigarette butts. They do not use the products but they do have to pick them up after other people. The container of the cigarette butts as well as the original container that Mr. Bynum stated he would like to see.

Mr. Bynum: Thank you.

Ms. Saiki: I guess no matter how far away you go, the bubbles are still around and I also wanted to submit that as a part of our testimony that with cigarette smoking, designated smoking areas do not work. They still spread around, they are still a distraction, and youth do see it and think it is an entertaining and fun behavior, and that is kind of the reason why we want to get it out of the parks. So I hope you kind of accept our skit as a part of our testimony.

Mr. Bynum: We do. Thank you.

DR. DILEEP G. BAL, M.D.: Before you start the clock ticking, let me say the limit to three (3) minutes is a violation against the SPCA rules. Mr. Chairman, Councilmembers, I seldom testify at these things because it is the second time in seven (7) years I am coming down (inaudible). The reason is tobacco is a core issue for me. Not only am I testifying as a District Health Officer but I also have done a lot of tobacco control. My prior job was heading the largest tobacco control program in the world, spent a couple billion dollars on this business so I know a little bit about it.

Mr. Chang: Doctor, excuse me, you have to introduce yourself.

Dr. Bal: I am sorry, I am Dileep Bal, I am a health dilettante from this County.

Mr. Bynum: Start the three (3) minutes now.

Dr. Bal: Again, to me, Mr. Chairman, this is a no brainer. The six hundred (600) Counties nationwide that have gone this way, Councilman Chang's bill I think is absolutely lovely. The box of the children is egregious to allow small minority to model poor behaviors. For heaven sake we are protecting our *keiki*. Not only are you exposing them to second hand smoke, but you are also modeling what is...those kids learn behavior based on the adults around them. So again my compliments, Council, it is a great bill, I am strongly in support of it.

The mortality burden again is preaching to the choir. We have twelve hundred (1,200) deaths a year in Hawai'i from tobacco use; sixty (60) of those are in this island; ten percent (10%) of those are due to second hand smoke. Literally, you have a couple of people a week nearly dying of second hand smoke in Hawai'i. We are exposing people to this? The issues come up on campgrounds? Well, campgrounds are for camping, not for smoking. Are you going to...again it comes down to the old argument of individual rights versus community responsibility. The decision for these things in this area will actually be made by the seven (7) of you. I am sure you will exercise your wisdom in the direction of protection of those who could least protect themselves in this regard. I am sure people will trot out the nanny government argument; of course they will. It is funny on the mainland even the tobacco industry for all the villainy do not use the nanny government argument very much more for the simple reason, Mr. Chairman, that...

Mr. Topenio: Three (3) minutes committee chair.

Dr. Bal: Was that the three (3) minute warning?

Mr. Bynum: That is three (3) minutes. I guess I am going to change what I initially said, would you like to take the additional three (3) minutes?

Dr. Bal: Yes, Sir. Mr. Chairman, I would love to.

The nanny government argument, again, this is a very, it is a delight for me having been here for the last seven (7) years and I do not say this because I appear before you, because I am a very blunt man, but this is a very progressive community. Even in the other nanny government argument, you guys have shown the way. You have the path, our Mayor Bernard has pushed HoloHolo 2020, this is a very enlightened community and it is a joy for me to be a citizen here. So the nanny government argument on tobacco, I mean it is enshrined in science. How much science do you need to make a relatively simple decision?

Again, another couple last things, *malama aina*, must be more than a rhetorical (inaudible). We talk about *malama aina*, the 4.5 trillion cigarette butts worldwide in public rights of way. Technically, I mean I came here from California, under Prop 65 there you cannot even put it in your sanitary landfill, they have to go to a toxic waste landfill. So are you going to spend time having people police the parks to pick this stuff up and put it in a toxic waste landfill? There are a lot of issues, enforcement is one (1), enforcement on these islands is always underfunded. Just to surprise you, Tim, I am going to come in under the wire, I will be happy to respond to questions, but I came in under the six (6) minutes.

Mr. Bynum: Very good. Any questions for Dr. Bal? Seeing none, thank you very much for being here.

Dr. Bal: Thank you, Sir.

ROSANNA LOUIS: Hello, my name is Rosanna Louis. I have my green testimony. As a former smoker I understand how smokers feel about being able to smoke. Although smokers may feel that it is their right to smoke where they please, they must understand that public property like parks and recreational areas are not their property and have different rules than their backyard. Unlike their backyard parks and recreational areas must be shared with all of the community, especially young children whose rights to breathe clean and untainted air should never be compromised. After the birth of my son, I have been more conscious of smokers and the smell of cigarette smoke. I am appalled by the number of people that have no problem lighting up a cigarette not three (3) feet away from my baby stroller, let alone wide open spaces not unlike parks. This issue deals not with the compromise of smokers rights, but the understanding of everyone else's rights. Thank you.

Mr. Bynum: Thank you.

CARA SADIRA: Aloha, County Council. Thank you for letting me speak today. My name is Kara Sadira. I am the Program Director and Certified Tobacco Treatment Specialist with Child and Family Service in their Tobacco Cessation Program.

I wanted to present to you some of that science that Dr. Bal was talking about. Some of that is that research has shown that sixty to eighty percent (60% - 80%) of all smokers are either thinking about or want to quit smoking. We have worked with hundreds of those smokers over the past several years. The relapse rate is extremely high. One (1) of the reasons that the relapse rate is high is because when smokers go out to a place and get triggered by smoking, they have brain chemistry that lights off and automatically craves the cigarette. You would not have other recovering drug addicts go out somewhere and continually be confronted involuntarily by the presence of that drug, not only in front of them where they can see, but involuntarily inhaling it. So going to public places where there is smoking is a very high cause of relapse. It is close to our hearts at Child and Family Service because we work with those smokers and we see the struggles that they go through. We see that they have had family members that have died of tobacco smoke, we see that they have had diagnosis and they really want to quit, and we see them go out in public places and then be lured back into smoking; it is very unfortunate. In summary, basically smoking is the single highest cause of preventable death in the nation and tobacco related chronic disease is crippling. On a personal note, my ex-father-in-law is currently dying from tobacco smoking as we speak. So in the best interest of those who are trying to quit smoking, eliminating smoking from public parks would be a tremendous asset to those people who are taking that positive step in their lives. That is it, any questions?

Mr. Bynum: Thank you very much.

C.S. "WILD DOG" TAKENAKA: Christopher "Wild Dog" Takenaka, but the paper was so short that I had to put C.S. in there.

My testimony will come in a bit, but personally I can only speak for myself being a recipient of the second and third hand smoke basically all my life; that is where my hacking cough comes from. It is from being totted around with a chain smoker, so it is very different with my son "Wild Pup," he does not get that smoke because I am very conscientious about his lifestyle and want it to be as healthy as it can be. We still have the residue of the nicotine around. His grandfather recognizes this as early as post hurricane where we had the house fixed, and he recognized that the smoke was ruining the inside of the house. So he has a designated area in our garage, a little square table, you can drink and smoke as much as you want in

that designated area. Even then, we have to turn on the fans in the living room and the kitchen to blow it back out there because it is so...again I have the smokers cough, but I have never smoked a day in my life.

The cigarette butt issue, when I was eight (8) years old, in the driveway I picked up a cigarette butt thinking what is this, and nobody was around and I just put it to my mouth and it was so horrendous, that is basically the reason I do not smoke, coupled with those other things.

Which draws me to my testimony if I can read it. I submitted this part online just this morning though. Children are born without cigarettes in their hands for a good reason. Our children ought to have the opportunity to grow up to be strong and healthy with good nutrition and lots of exercise. Today our children are able to run around freely and play and laugh together. So many homes without big yards are built closer and closer, where the child is told to be quiet and be still. That is my childhood thirty years ago, almost forty years ago. That is part of my son's childhood when he is with grandpa, be quiet, be still, I have to smoke my cigarette, while he gets to breathe it in and he gets to touch the residue that is on pieces of furniture and places you eat.

Mr. Topenio: Three (3) minutes, Mr. Chair.

Mr. Bynum: Christopher, three (3) minutes, would you like to continue?

Mr. Takenaka: Yes, please. I will try to read this as quickly as I can.

Today, more than ever our children may play and get their exercise outside of their homes at the beach or recreational park. They are encouraged to do so by responsible and busy parents. To run around and play with their friends...when we gather together at the park we have to keep the children's playground clean, common areas included. I am paraphrasing my own writing because I cannot even see the thing. Let us not replace their laughter with hacking coughs like you are hearing today, nor dirty their hands with filthy ash and nicotine. All of us deserve this same opportunity to breathe fresh air and live a healthy life. Let us all make good use of the neighborhood park, keep it clean, and smoke free. Thank you.

Mr. Bynum: Thank you.

JANICE BOND: Good Afternoon, Chair Furfaro and Councilmembers. I am here in support of Bill No. 2437. My name is Janice Bond, Kaua'i's first Tobacco Free Community Coalition Coordinator from 1998-2001. I organized the State's first youth coalition S.H.O.U.T. (Student's of Hawai'i Opposing Use of Tobacco), accompanying fifteen (15) Hawai'i teens to the first Truth Summit in Seattle, Washington. We organized Kaua'i's Restaurants to be smoke free with the help our County Council. I was the State Coalition Co-Vice Chair with Dr. Elizabeth Tan and sat on the first Hawai'i Trust Fund Advisory Board; the only neighbor island member for six (6) years. I am proud of the work Kaua'i has done in the past, and proudly shared with you the work done during my tenure in picture and youth clippings. Kaua'i is once again able to advance the benefits of health and environment by approving Bill No. 2437 for the sake of its citizens. People may think having smoking at parks, pavilions, and community venues an infringement on their rights; but given the smoke free restaurants where families can now enjoy a clean air environment without having smoke in the air, I can testify that this will benefit all people. I am also one (1) of Kaua'i's American Cancer Society Cancer

Action Network Legislative Advocates. We see the toll smoking has had on the lives of our loved ones. Smoking took the life of my son's father with throat cancer at age sixty-nine (69), and their step-mother of lung cancer four (4) months after. Besides many other relatives and friends who have died, I have produced six (6) issues of smokers stories of struggles and successes; my story is in there too. I was once a smoker who quit after twenty (20) years of smoking. At thirty-nine (39) coughing up blood already, I took the Cancer Fresh Start Clinic and for accountability became a trainer. I have been successfully quit for thirty-one (31) years. Our children suffer from smoke related illnesses, we do not want to acknowledge it was our fault. Please look at the larger picture for the health and environment of Kaua'i's people. One (1) even that our teens did was collect butts at Lydgate where they filled gallon bottles and shared the site at the County Fair and other venues. It was such a visual reminder of what we put in our lungs when we smoke. It also reminded us of our environment and what we put into the ground and public properties. So please pass Bill No. 2437. Thank you.

Mr. Bynum: Thank you, Janice. As the next speaker comes up, I just want to thank Janice for sharing her scrapbook off all the community action that happened way back in 1998 to 2001 on this issue. Thank you, Janice.

STANLEY DOTARIO: Good afternoon. Stanley Dotario. Lifetime resident of Kaua'i. I am pretty sure I lived on this island longer than any of you here. I am sure too, I smoke longer than (11:02:48) alive today, over fifty-five (55) years I have been smoking. I am sure I can race anybody here one hundred (100) yards after all these years of smoking. I am not saying smoking is good for the health. Some of the reasons I have heard the testimony – kids put cigarette butts in the mouth, I am pretty sure all of us as a child had put something in our mouth. I remember my father and my mother snap at me and teaching me not to put something in your mouth. I have heard about getting in the drinking water. Where I live the water comes from the mountain, we have wells, I do not think anybody going up there and throwing cigarette butts in the wells in the water. If anything we should be worried about is the chemicals that stay in the ground right now. I seen one (1) picture, and I like to pick on you, Valerie. You had a picture here with a crab with a cigarette butt in its claws, heaven forbid if that crab had eat it and die, we have enough endangered species dying. About the butts on the road, Joe Rosa said when he was working for Highways, a lot of butts, we know that, a lot of butts. What is next? No smoking in your car because you are guilty you are going to throw it out of your window. We already have a litter law, enforce the litter law. If I am smoking and got caught on the beach, penalize me, but I am a responsible person. All my life I have been responsible and conscientious of what (11:04:38). Do not find me guilty because I am the guy that smoke and put it in my cigarette pack and throw it in the rubbish can. This is America, you are innocent until proven guilty is what I was taught when I was growing up on Kaua'i. We already get laws you cannot smoke in County Building, fine I agree with that because there I sometimes I cannot stand the smell of smoke. We have laws you cannot smoke in a bar, I know too much about that, but fine with that. But to tell me I am playing a baseball game and after I hit a homerun I cannot grab a cigarette and smoke to relax, I do not get with that. Thank you very much. Any questions?

Mr. Bynum: Thank you, Sir.

Chair Furfaro: Stan, we have a question. Councilwoman Yukimura has a question for you.

Ms. Yukimura: Hi, Stanley.

Mr. Dotario: Hello.

Ms. Yukimura: Thank you for coming because we need to hear all sides on this issue. Are you recommending a designated area in parks?

Mr. Dotario: If it is not too much trouble, I would be fine with that. But to walk let us say within one hundred (100) feet from the beach let us say, right, to go outside on the road, we are still going to have butts out there on the road. What makes you think that I am going to walk out here and go okay now that I am off the beach or off the County Park I am going to put it away? I am going to throw it out there anyway, right? So if we was to have a special place, one (1) special place, fine.

Ms. Yukimura: With a proper rubbish can.

Mr. Dotario: Yes. I mean, we have enough laws and I am pretty sure Shaylene Carvalho would say, we have enough things that is on the books right now, how are we going to enforce this law? How do we enforce this law? Yes, we pass a law, fine, how do you enforce this law? How are you going to testify against me? Yes, he was smoking a cigarette butt, where is the cigarette butt? Who is going to come, let us say if it is a tourist, going come back to Kaua'i to testify against me for a cigarette butt? Do not make a law that we cannot enforce, there is so much other laws.

Ms. Yukimura: I think you are right. We have to enforce our laws otherwise they become meaningless. So enforcement has to be a part of this. But there is a certain amount of just public enforcement I think, public social pressure.

Mr. Bynum: Is there a question, JoAnn?

Ms. Yukimura: Yes. No. I did ask my question already, thank you.

Mr. Bynum: Thank you.

Mr. Dotario: Thank you.

Mr. Bynum: I was reminded by staff that this is a public hearing and we want to keep questions to a minimum.

Ms. Yukimura: Sure.

Mr. Bynum: Thank you.

Chair Furfaro: Mr. Bynum, you should also remind them that this bill will come back in your Committee on June 6.

Mr. Bynum: Yes.

Chair Furfaro: Which at that point...I am sorry, it is next week the 20th, it will be back June 20, and at that time you can interact in Committee on Q & A.

Mr. Bynum: Just to clarify what the Chair is saying, our rules really say that this is primarily to hear from you, not for us to dialogue. But the bill will be back here next week, and then we will be welcome to more dialogue. Thank you.

SALLY JO MANEA: My name is Sally Jo Manea. Thank you for the opportunity to testify. I submitted written testimony earlier, and so I will not repeat that. My points have already been made, so I will not take up your time. Just one (1) thing, when doing our exercise class in the neighborhood center at Kapa'a, we can smell the smoke from the people who are out by the ocean. Just so you understand, it is not just a matter of being twenty (20) feet away. That is all I have.

Mr. Bynum: Thank you.

TESSIE KINNAMAN: Aloha, good afternoon, Tessie Kinnaman, for the record. I am submitting a petition and these signatures on this petition oppose the amendment to this ordinance. The petitioners are opposed to the amendments to this bill...we have like three hundred forty-three (343) signatures. They were pretty surprised that this was even coming out. For some of them it will affect and limit their freedoms and their liberties to use the parks, i.e., beach parks, ball parks, and the golf course. These signatures, these petitioners are conscientious, hardworking, and productive taxpaying residents of the County. Some of them, majority of the, not the signatures but I would say a majority of people that do smoke also are hardworking County workers that do work in open space. And so, they are...we are very opposed to this amendment. Comments such as it is open space, it is very breezy, and one (1) comment from a person was that - what about the tourist? They already are restricted on their private properties where they stay. That comment surprised because I did not think about the tourist. Some people felt that we should not be micromanaging individual habits or behaviors. These existing smoking ordinance in relation to buildings and restaurants is working very well, and people to keep their...when they are outdoors they do take their directions, where if someone is smoking, the smoker will take a step or both takes steps aware from each other. So it works outdoors as well as outside of buildings. I noticed that...I am a smoker for forty-five (45) years. With the ordinance, the existing ordinance, the smokers are a little more courteous, respectful of each other, with smokers and non-smokers, and signatures on there are also non-smokers because they do believe at least in their liberties. What else are they going to take away from us? It is like the doctor said (inaudible) uses the nanny government statement. Like Mr. Dotario mentioned there is litter laws that not only us throw cigarette butts, people throw other stuff outside the windows or whatever. The way as far as the ocean, not everybody goes to the beach to smoke.

Mr. Topenio: Three (3) minutes, Chair.

Mr. Bynum: Tessie, that is your three (3) minutes, would you like to take the additional?

Ms. Kinnaman: Yes, please.

Mr. Bynum: Go right ahead.

Ms. Kinnaman: Thank you. The currents do carry debris and everything else in the ocean to the shoreline. I would like to read, I found this article years and years ago back in the 1970's. I would like to use this as my closing statement. It is from the San Francisco Federal U.S. Appeals Court Judge Steven Reinhardt, and I would like to quote "the Bill of Rights is intended to protect the rights of those in the minority against the temporary passions of a majority which might wish to limit their freedoms or liberties." So I think the people that are opposed to this bill have every freedom and liberty that they should exercise that. Thank you.

Mr. Bynum:

Thank you.

MARY PAT MILLS: I know I am going to go over three (3) minutes. Aloha, Kaua'i and Ni'ihau. I am against Bill No. 2437. Mary Patt Mills. Born in Southern Illinois in a town of ten thousand (10,000), I left St. Louis Gateway to the West in 1968. I have survived losing my house and business twice in Hurricane Iwa and Hurricane Iniki. I became a registered voter for the first time in my life when JoAnn Yukimura was running for Mayor, even though some permits that already had been issued for building on Nukoli'i, and ancient Hawaiian fishing village and heiau. I thought if my vote can help save this island from more building, I wanted to vote. In April of 1987 until 911 1992 I was blessed by a Ni'ihau minister to restart my own business with the award bid of \$3,423 a month, for a booth at Spouting Horn Park. When the Kaua'i County Code 1987 relating to parks and recreation was first issued. I am now retired but employed part time at Spouting Horn, and run my own business at craft fairs in the parks from Po'ipū to Hanalei. I pay GE, Federal, State taxes, the \$100.00 fee for fairs go to Malama Pono and other cultural groups. Yes, I smoke cigarettes. Please do not judge or condemn me or others. So now when I am twenty (20) feet from a craft booth, the tourist come running. They are relieved and happy to be able to light a cigarette. They have just flown five (5) to fourteen (14) hours to Lihū'e Airport where they cannot smoke to a rent a car, hotel, restaurant, food, souvenir shopping, bar, gas station, and now they want to go to the beach and they cannot smoke. A lot of Canadian and Japanese smokers now, now there are new flights from New York and Washington D.C. that will be bringing \$3 million to Hawai'i, \$170 million, (inaudible) 17 million for taxes and \$13 million. This bill will cause nine thousand (9,000) or more upright good citizens to become a potential criminal. Should government regulate our personal conduct, the parks, the ball fields, have more open air than anywhere else and also Wailua Golf Course, except directly on the beach. A lot of dollars will have to be spent on painting roads, drawing lines in the sand, signage for what is on the County or State land. More manpower than the County employees at the parks to issue citations. Who wants DNA testing going to whose cigarette butt it is? What is the cost of that? The (inaudible) will be like the size of an eye of a needle compared to what is inevitable to be coming our way from Japan. It would be better to save our tax dollars and spend money on youth for proper education for smoking, alcohol, prescription, and illegal drugs, and suicide. For the eight thousand (8,000) people, report of children who ingested other products, where were their parents or caretaker? Most of all we want to respect the *malama aina* and the *keikis*.

Mr. Topenio:

Three (3) minutes, Mr. Chair.

Ms. Pat Mills: My suggestion is that a Councilmember propose a Charter Amendment to make a bill to be on the...I am sorry, to make a bill to be and let the people vote and decide whether they want Bill No. 2437 to pass or not. Please do not take away my Bill of Rights, the Declaration of Independence July 4, 1776, and the Bill of Rights of other amendments to the Congress December 15, 1791. Thank you.

Mr. Bynum:

Thank you. Is there anyone else in the audience who chooses to testify?

CHARLES WEXSLER, JR.: Good afternoon. My name is Charles Wexsler, Jr. I prepared a statement that I emailed to you this morning so I am not going to repeat that. I would just like to mention a couple of things off of the top. One (1), we have to make a distinction between public health issues and private behavior. We have to know that you would not put a chemical plant on the beach,

you would not put a chemical plant in the parks, we separate things that are dangerous to people and society by location, by issuing permits, etcetera. There is no, I know this is going to be hard to take for some people, but there is no inherent right to smoke. In all of our government documents, it does not exist. That is a privilege. Smoking can be controlled just like all chemical substances can be controlled. I also just want to say that I think this bill moves more along the line of environmental changes and social norm changes, rather than...a question was brought up about enforcement. Well, I am not saying this is not going to be enforced, but for you folks who are going to get the phone calls from the fisherman who says I am going out at night and some guy is going to come and tell me I cannot smoke my cigarette on the beach when I am fishing; you know you are going to hear that. But do you think any officer is going to go up to that person and give that person a ticket at 10 o'clock or 11 o'clock at night? Let us be real here. What we are trying to do is create an environment where smoking can only be done in safe areas. Thank you very much.

Mr. Bynum: Thank you. Is there anyone else in the audience that would like to testify? Mr. Mickens.

GLENN MICKENS: Thank you, Tim. For the record, Glenn Mickens. I was not going to testify but I have a short thing I want to say. I fully agree with all the testifiers who are for this bill. I have never used tobacco, nor will I ever use it, but we must be able to do something for those addicted with this terrible habit. I am not sure what that solution would be. We cannot just ban these people to a place like what they did with lepers to some colony somewhere; that is impossible. Personally, I would have banned the sale of tobacco long ago, but that cannot be done. I would suggest that some solution be offered along with this bill before it is passed. I really do not have the answer. As the gentleman just said, realistically in the real world you are not going to get an officer on duty some place to go down to a fisherman or somebody else that happens to be smoking, it is just not going to happen, or if you have a restricted area where the people are supposed to stay. For somebody to have to keep on being there at that particular time, I do not think that is going to happen. And again, this is not an easy thing to do and I really respect my friend here for introducing the bill. I think something is going to have be done first along with the bill to do something for these people. Thank you, Tim.

Mr. Bynum: Thank you. Anyone else? Yes, Sir.

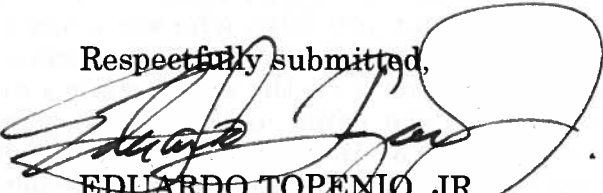
JOHN HUNT: Again, I am John Hunt, and I am not going to take three (3) minutes. I just want to make a couple of small points, point number one (1) the courts have ruled over and over again there is no right to smoke. I however have a complete right not to be exposed to someone else's cigarette smoke; that is my right. Point number two (2) on enforcement – one (1) of the first tobacco control issues ever to be passed was no smoking on elevators. That has been so successful that all the people that were enforcing that law all these years, they are not having to enforce it anymore. When was the last time you saw someone smoking on an elevator. And so, all those people are now available to enforce this law in our County Parks. Those people are you and they are me. And again there is no right to smoke, and I will reinforce something that Kara brought up earlier because most of us who have testified work with smokers for a living. I can reinforce what she said that about eighty percent (80%) of smokers desperately want to quit smoking, and they come to us and ask for help and we are compassionate with them. But we also have a duty to protect the children and the rest of us from second hand smoke. We are not telling smokers they cannot smoke in their own homes, we cannot tell them that they cannot smoke in their own yard, they just cannot smoke where children

are playing in the park and expose them to it. There is no right to do that. Thank you.

Mr. Bynum: Thank you, John. Is there anyone else in the audience that would like to testify?

There being no further testimony on this matter, the public hearing adjourned at 2:36 p.m.

Respectfully submitted,



EDUARDO TOPENIO, JR.
Administrative Assistant

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